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CONSERVATION COMMISSION MEETING J u l y 2 6 , 2 0 0 7 MINUTES

MEMBERS PRESENT: I. Wallach, Chair, R. Freed, N. Richardson, S. Lunin, A. Green

MEMBERS ABSENT: D. Dickson; R. Matthews, Associates: J. Hepburn, D. Green

MEMBERS OF THE PUBLIC: See attached sign-in sheet.

Letters of recommendation for CPA fund expenditure for acquisition for 24 Warren St., and for 30 Wabasso St.

Meeting: These items were moved to the head of the agenda so that Alderman Baker could address the Commission regarding 24 Warren.

24 Warren St.

Report: is also under consideration for partial purchase and/or CR with CPA funds. It has intermittent stream/natural run-off channel that crosses it from N to S with no associated BVW, but, except for rip-rap and fill around pipes at Elgin & Warren Street, stream in natural condition. Owner has planted west bank of stream with daylilies and hostas near Warren. Would provide direct access to Warren St. Conservation area and has moderately high aesthetic value. **CC might recommend use of CPA funds to purchase land or acquire CR if it does not preclude acquisition of land with higher priority under Open Space Plan. Meeting:**

Alderman Baker has been talking to the owner about the possibility that the city would purchase part of the land or pay for a CR for part of this property. He brought the Commission up to date on what has been done to research this possibility, including a delineation of wetland resource areas on the property, a survey by the Engineering department, and a site plan to help evaluate the value of the property for negotiation.

30 Wabasso St. – City has an accepted offer on the property which will be held by the CC, but grant a CR to the Newton Conservators. It is one of the three remaining privately held lots on Wabasso and Forest Grove abutting the Charles River access and pathway Street (and a priority for acquisition in the Open Space Plan) The Flowed Meadow path (adjacent to this parcel) is a walkway which continues through Forest Grove Park to Auburndale Park and eventually Commonwealth Avenue.

Conservation Commission

1000 Commonwealth Avenue, Newton, Massachusetts 02459

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Meeting: Anne provided an up-date on the property and asked the Commission if they will endorse the application for CPA funds to acquire, demolish & clean up 30 Wabasso St., as an addition to the Flowed Meadow Conservation Area, for passive recreational use. The Commission voted unanimously to endorse this project.

3 Fuller Avenue: Continuation of Public Hearing on Notice of Intent for demo of existing dwelling, construction of new dwelling with amenities.

Report: At last meeting CC requested: 1) Revised plans, with building footprint in compliance with required setbacks, as indicated at the meeting; 2) new NOI & plan or letter to indicate that if owner buys the land he will address the violation; 3) plans showing what is proposed if they cannot get ownership of the land; 4) plan should include planting the bank in native vegetation and moving the garden out of BVW.

Applicant submitted new site plan dated July 9, 2007. New plan shows re-configuration of house to remove existing screen porch and construct larger deck instead, while expanding the house by approximately 1 ft along length (no N arrow on plan). Existing pool & deck to be removed and roof drains leading to dry wells are proposed to be added. BVW line shown (soil borings and plant logs previously requested by Martha still not supplied). Anne & Frank Nichols observed disturbed soils in garden area dominated by facultative vegetation (rushes & impatiens), with Typha about 4-5 ft behind garden. For staff, location of garden area is still in doubt relative to BVW. Applicant's representative sent letter re CC requests from last meeting, but letter says the owners have not yet approved the mitigation, and that they will address the violations once they have obtained title to the property. There is no indication that owner has sought to communicate w/parcel on which violations exist, nor that owner has any plan to address violations if he does not obtain property.

Meeting: Mary Trudeau, Wetland Consultant reviewed the history, including the Russo(s)' use of the right of way without permission from the owner and the violations on this parcel. The owners are now trying to obtain the parcel containing the right of way (paper street) through the court as a claim of adverse possession. Ms. Trudeau submitted (July 23, 2007) description dated July 10, 2007, of how the Russos plan to address the

violations when they have obtained title to the property or permission to access the areas in question. Mr. & Mrs. Russo propose to address the violation by taking the following steps: they will abandon the vegetable garden and remove the existing fence from the perimeter and re-plant area with a wetland seed mix. The bank of the "stormwater drainage channel" is proposed to be planted with *Cornus amomum*, 8 ft on center along the top of the bank; owners will remove mulch and re-plant the landscaped bed above the "stormwater drainage channel" with native shrubs. Discussion centered on 1) whether there was adequate delineation of bordering vegetated wetland, particularly in the garden area, 2) whether there are wetlands on the property presently owned by the Russos, and 3) whether the Commission can/should require the Russo family to address the violation prior to obtaining ownership of the property, and prior to starting work on their own property. Ms. Trudeau states that in her professional opinion there are no wetlands on the property. **Motion: R.** Freed moved, A. Green seconded a motion to approve the project with special conditions to limit excavation to no closer than 15 ft to the Russos' property boundary and to install a silt fence barrier to erosion and sedimentation at this 15 ft line. N. Richardson opposed. **Motion Passed.** CC advised that staff should check back with owners in 6 months time to see what progress on getting possession of property with violation.

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Charles River Water Chestnut harvesting – DCR, Jim Stroud- reporting on water chestnut harvesting methods, including disposal. Letter was sent requesting his attendance at this meeting– no response so far. **Meeting:** Mr. Stroud is out of town. Dan Driscoll and Jerry Smith of Aquatic Technology offered to come, but staff advised them to let Jim come and provide first-hand report in Sept. with filing of NOI and request for Certificate of Compliance on old expired OOC.

236 Islington Rd.–RDA Jennifer & Jeffrey Robinson – to convert driveway from peastone to concrete pavers in the 100 ft buffer to the bordering vegetated wetland.

Report:. Owner new and initially confused about resource areas. There is an open OOC for other work – restoration area needs time to grow. Current request is to convert stone driveway to pavers; about 67 sf of the driveway is in the outer buffer zone to BVW. Trench drains across each arm of the semi-circular driveway lead to a manhole under the grass in the center, and will be maintained when pavers are installed. Stone will be scooped out of driveway area & removed, then replaced with pavers. No stockpiling on property will occur. A negative determination on the work is indicated.

Meeting: Mr. & Mrs. Robinson describe the project. A neighbor (Mr. Jim Buech) speaks from the audience in support of the project. Staff indicates project very unlikely to affect bordering vegetated wetland behind house and needs no erosion & sediment control.

Motion: R. Freed moved, N. Richardson seconded a negative determination (3) on the work with not conditions. Vote: Unanimous. **Motion Passed**

64 Adeline Road – NOI from Michael Chartock to re-locate curb cut and re-configure existing asphalt driveway in the flood zone and 200 ft riverfront to Paul Brook, with proposed mitigation. Site visit with city engineer

Report: Staff determined that yard is not within flood zone (although shown as flood zone on city GIS). Re-location of driveway & curb cut is to access new garage addition that is out of resource areas. Staff requested applicant's engineer furnish calculation for amount of lot in riverfront, amount of change to impervious surface in riverfront, and amount of area for mitigation plantings. Recommend that plantings be native vegetation with wildlife value, which shall be maintained in perpetuity (on-going condition on Certificate of Compliance).

Meeting: Mr. & Mrs. Chartock described the project and thanked staff for her help. Staff suggested that under 10.58(5) an amount of mitigation of 2:1 should be offered, either for the amount of new impervious surface, or for the total amount over 10% of the riverfront that has already been developed. The owners calculated amount of new work in riverfront to be 24 sf (net increase). F. Freed does not think the project falls under 10.58(5), and discussion followed, with the conclusion that the discussion should continue at another time.

Motion: A. Green moved, S. Lunin seconded motion to approve the project with a special condition of 48 sf of mitigation to consist of planting native indigenous vegetation in the riverfront area of the property, as close to the river as practicable. Owners shall provide planting plan to staff for her approval prior to issuance of the Order of Conditions. Vote: Unanimous. **Motion passed.**

41 Bernard Street- Abbreviated NOI by Duncan & Asli Scott. Landscaping plan submitted (no site plan) for removal of exotics & planting new spp in riverfront and on the bank. Exotics mentioned are not all exotics, and are stabilizing bank. There is insufficient information presented for a vegetation control plan. Also, several plants proposed to replace "exotics and invasives" (bald cypress, hawthorn) are also not native, or not native to the area – tulip tree, and fruit trees that are already planted). Landscape plan shows fence is planned next to the bank of the Charles – applicant said he would withdraw the request for the fence but has not submitted new plan. The city's GIS indicates some BVW alongside the Charles left side when facing the river; sensitive fern right at the bank's edge on the "right" side of the back yard at the edge of the river, but owner is mowing right up to woody vegetation on bank, and I did not see any area that is

obviously BVW. Engineering is mainly concerned that no raised beds be installed within the flood zone – bare-root plants or perennial beds are fine but should not be heavily mulched nor should they be fertilized and should be located away from the bank. Some of the plants shown on the planting plan. Generally, I would recommend a property owner can plant whatever he/she wants, but in this case I do not recommend removal of vegetation from the bank at all, nor installation of a fence within 25 ft of bank. **Meeting:** Staff reported that applicant has withdrawn the application.

Violations:

42 Selwyn Road – possible violation: cutting vegetation on the stream bank (mostly Japanese knotweed) and planting non-native vegetation (hostas & daylilies). Staff sent a letter to owner asking her to appear at this meeting and advising she should file vegetation management plan if she wishes to alter stream-bank vegetation.

Meeting: Staff reported owner had telephoned and said she would appear, but she has not appeared. Staff was directed to re-contact owner and require her to appear at the next Conservation meeting.

2 Harwich: Annd and N. Richardson observed a tree-house and a garden in bordering vegetated wetland along the MWRA right-of-way off the Hollywood cul-de-sac (just past Hollywood & Vine). Staff sent a letter.

Meeting: Mr. Gary Hendron, husband of owner appeared and stated that the vegetable garden and the tree house had been on the site abutting the MWRA right-of-way for many, many years. He also admitted he cut a branch on a tree overhanging the garden for more light. Following discussion, the Commission determined that the activity is "grand-fathered" and no further action is required.

Certificates of Compliance

19 Hargrave Circle-Yu-OOC_for driveway & landscaping improvements in buffer zone and wetlands

Report: OOC issued for re-grading to elevate driveway out of wetlands and perform restoration plantings in excavated areas. Application was joint NOI for 11 and 19 Hargrave. Partial COC issued to 11 Hargrave. OOC expired in 2006. #19 just completed all requirements, including replacing plantings with correct species of native wetland plants. Martha had recommended a 2-yr review or at least 2-growing season wait to check viability of plantings, but owner called me to inspect plantings this June and is requesting COC be issued now.

Meeting: Staff reported inadequacies in the as-built submitted: 1) The planting areas are not shown, 2) the limits of asphalt on the driveways are not shown, and 3) the changes (before and after elevations) need to be shown and labeled on the as-built plan.

Finding: The Commission agreed and directed staff to inform the owners that no Certificate will be issued at this time. The owners should provide an as-built in 1 year's time with above information and staff will check the plantings again at that time.

146 Albermarle Rd- 2-story addition on pilings in flood zone and 200 ft riverfront to Cheesecake Brook. – OOC issued 2006;

Report: Sweet-removed wooden deck & constructed 2-story addition on pilings in flood zone and 200 ft riverfront to Cheesecake Brook. – OOC issued 2006; awaiting topographical as-built.

Meeting: Newton standard condition special condition #23 requires that roof drainage be infiltrated and that "The City Engineer shall review and approve the proposed design prior to the commencement of construction. Condition 25(c) requires "An as-built topographic plan signed and stamped by a professional land surveyor registered in Massachusetts to complete the public record. This plan will include as-built elevations of all drainage structures constructed within 100 feet of any wetland, distances to all structures and elevations within 100 feet of wetlands." No topographic as-built has been received. Roof runoff not infiltrated.

Finding: Staff reported that Commission noted that Order of Conditions has not been met, as special condition calling roof drain and for as-built has not been satisfied. Staff will inform owners, and no Certificate will be issued at this time.

77 Hagen Rd – Concetta Dario - addition on piers in floodplain.

Report: 00C expired in September 1996; porch & deck added in flood zone.

Meeting: Plan does not show and there is no statement from surveyor, as required, that addition was built on piers in accordance with the Newton floodplain requirement.

Finding: The owner has not satisfied the Order of Conditions, and owner shall furnish an as-built with a statement from the surveyor that the work has been performed in substantial compliance with the Order of Conditions.

Announcements & General Business:

June 28, 2007 Meeting Minutes for approval – Commission voted unanimously to approve June 28 meeting. Minutes.

All other business postponed. Commission adjourned at 10:15 pm.

Boundary Trespass: 0 Carlisle Street status

CC elections

Non-criminal ticketing

Dolan Pond C.A. invasive vegetation project

Pending enforcement actions: Crystal lake condos - update

Outstanding issues – discussion

Respectfully submitted,

Anne Phelps, Sr. Environmental Planner